

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application No. _____

Application of Blue & Gold Fleet, L.P.
(VCC-77) For Authorization to Increase
Passenger Fares on Its Vessel Common
Carrier Service on San Francisco Bay Between
Tiburon on the One Hand and Authorized
Points in San Francisco on the Other Hand
and for Zone of Rate Freedom Authority to
Adjust Fares

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Dated: April 15, 2016

Attorney for Blue & Gold Fleet, L.P.

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APPLICATION

By this Application, BLUE & GOLD FLEET, L.P. (VCC-77) hereby respectfully applies to the Public Utilities Commission of the State of California (“Commission”) for authorization to increase passenger fares on its vessel common carrier service on San Francisco Bay between Tiburon on the one hand and authorized points in San Francisco on the other hand (“the Tiburon/SF Service”) and for Zone of Rate Freedom (“ZORF”) authority to adjust fares. In support of its Application and pursuant to Public Utilities Code section 454, Applicant alleges as follows:

INTRODUCTION AND SUMMARY OF PERTINENT BACKGROUND

1. Applicant is a Delaware Limited Partnership which has been duly organized and is authorized to do business in the State of California. Applicant’s status was acknowledged by the Commission in its Decision D.97-06-0066 issued in 1997 after documentation of Blue & Gold Fleet, L.P.’s status was filed with the Commission as part of Application No. 95-12-071.

2. Applicant’s corporate and operational business office address is: Blue & Gold Fleet, Pier 41 Marine Terminal, San Francisco, CA 94133.

3. Pursuant to Commission Rule 2.1(b), notices, correspondence and communications with respect to this Application should be addressed to the Applicant's attorney:

Daniel F. Reidy, Esq.
LAW OFFICES OF DANIEL F. REIDY
270 Blair Mine Road (P.O. Box 760)
Angels Camp, CA 95222
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and to the Applicant's President:

Carolyn Horgan
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San Francisco, CA 94133
Telephone: (415) 705-8200
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4. Applicant is a Vessel Common Carrier (VCC-77) authorized by the Commission to carry passengers on vessels on San Francisco Bay. Applicant has been providing the Tiburon/SF Service continuously since 1997 when the Commission approved the transfer of assets and routes of Red & White Fleet, Inc. to Applicant in Decision No. D.97-06-066. Part of that transfer was Applicant's assumption of passenger ferry routes between the Town of Tiburon and San Francisco. In addition, by Decision No. D.00-06-060 issued on June 22, 2000, Applicant received authority from the Commission to operate "short hop" scheduled common carrier service between Sausalito and Tiburon on San Francisco Bay.

5. Blue & Gold Fleet, L.P. operates its North Bay Service Routes made up of the Sausalito/SF Service, the Tiburon/SF Service and the Angel Island/SF Service as an integrated, coordinated operation. The higher number of passenger fares collected during the summer season help support year-round regularly scheduled passenger service on all three North Bay Service Routes. Also, historically and currently, passenger fares income received by the Applicant on the Sausalito/SF Service helps support the operating costs of the other two North Bay Services during the winter season.

6. Since 1997, Blue & Gold Fleet has been granted authority to increase its base passenger fares on its Tiburon/SF Service only four times. The first passenger fare increase was approved on February 4, 1999, when the Commission in Decision No. D.99-02-024 approved Applicant's Applications No. 98-07-047, No. 98-07-049, and No. 98-07-050, consolidating the Applications for Applicant's three North Bay Services in one Decision. In its Application for the Tiburon/SF Service, the Applicant sought increases in its fares of between \$0.25 and \$0.50 per one-way passenger and \$3.00 over \$63.00 for 20 tickets commuter book. Even with the proposed fare increases, the Applicant showed that it would not break even and would operate at a loss. The Commission found that Applicant's requests for the base passenger fare increases were just and reasonable.

7. The second passenger fare increase for Applicant's Tiburon/SF Service was approved on September 5, 2002 when the Commission in Decision No. 02-09-008 approved the Applicant's Application No. 02-06-015 in which it sought increases in its fares of between \$0.75 and \$1.25 per one-way passenger. A temporary fuel surcharge authorized by the Commission expired in June of 2002 and was not extended or renewed at that time because of a drop in fuel prices. Even with the proposed fare increases, the Applicant showed that it would not break even and would operate at a loss. At the time, Applicant projected a decline in tourism due to a downturn in the economy and the effects of the "9/11" acts of terrorism. The Commission found that Applicant's requests for the base passenger fare increases were just and reasonable.

8. The third passenger fare increase for Applicant's Tiburon/SF Service was approved on July 12, 2007 when the Commission in Decision No. 07-07-014 approved the Applicant's Application No. 07-01-006 filed on January 4, 2007 and amended on February 6, 2007 in which it sought increases in its fares of between \$0.50 and \$1.00 per one-way passenger. The Applicant presented data on its higher operating costs, increases in indirect expenses because of the loss of the service to Alcatraz, and costs of major repairs need for the vessel *Zelinsky*. The Applicant presented data showing that it operated at a loss during 2005 and 2006 and even with the proposed fare increases, the Applicant projected an ongoing deficit. The Commission found that Applicant's requests for the base passenger fare increases were justified and reasonable.

9. The fourth and last passenger fare increase for Applicant's Tiburon/SF Service was approved on April 22, 2010, when the Commission in Decision 10-04-045 approved Application No. 09-12-029 requesting base passenger fare increases of \$0.50 above then-current fares which included a fuel surcharge authorized by the Commission. The requested increases in base fares excluding the fuel surcharge were for \$2.00 for adults, \$1.00 for children (Age 5-11), \$1.50 for Group:Adult; \$1.00 for Group:Wholesale, \$1.00 for Group: Children, and \$15.00 over \$125.00 for 20 tickets commuter book. The Applicant presented data on its rising operating costs such as hourly wages and employee benefit program premiums and data showing that it operated at a loss during 2009 and that even with the proposed fare increases, the Applicant projected an ongoing deficit. The Commission found that Applicant's requests for the base passenger fare increases were justified and reasonable.

10. On a regular basis since 2004, Applicant has used authorization granted by the Commission to vessel common carriers to apply surcharges to its base passenger fares on the Tiburon/SF Service to cover volatile increases and decreases in the costs of diesel fuel for its vessels within a zone of reasonableness¹. The last Tariff filing for Applicant's Tiburon/SF Service that included some fuel costs surcharges was issued in December, 2014, a copy of which is attached hereto as **Exhibit A**. In February of 2016, Applicant received notice that the Commission was not extending the fuel surcharge authority for vessel common carriers due to the significant decline in the costs of fuel. This circumstance in effect means that the Applicant's passenger fares would be rolled back to what the base passenger fares were in 2010 as shown on **Exhibit A** unless they are updated by this Application for fare increases.

PASSENGER FARE INCREASES SOUGHT IN THIS APPLICATION

11. As graphically shown on the following Chart labeled **Figure 1**, Applicant is requesting the Commission to increase the base passenger fares on its Tiburon/SF Service for midday service, which were last approved in 2010, by \$1.50 per one-way trip for

¹ Resolution TL-19115 Extending the Authority Granted to Vessel Common Carriers to Adjust Their Fares without Specific Approval of the Commission, issued December 19, 2013; 2013 Cal. PUC LEXIS 732.

adults; by \$1.00 for one-way trips for children (age 5-11), seniors (age 65+), and groups of adults, children and seniors; and by \$1.25 for one-way group wholesale sales. These fares are the same as the fares paid by passengers in these categories since December 2014 which included fuel surcharges previously authorized by the Commission, as shown on Applicant's last filed Tariff page attached hereto as **Exhibit A**. This Application is not seeking any changes to the \$2.00 fare for the Short Hop between Tiburon and Sausalito. Also, this Application does not seek any change to the Commuters (20 tickets) rate since Applicant by a separate Proceeding has requested Commission authority to drop the Commuter (20 tickets) rate from its Tariff in anticipation that the commuter hours service will be taken over by the Golden Gate Bridge and Highway Transportation District.² The requested fare increases which are the subject of this Application are limited to the non-commuter hour service runs and are sometimes referred to herein as the fare increases for "Mid-Day" service runs.

Figure 1: Tiburon/SF Mid-Day Service - One-way Passenger Fares in Dollars

<u>Fare Category</u>	<u>Last Approved Base Fares</u>	<u>Previous Fares With Fuel Surcharge</u>	<u>Proposed New Base Fares</u>
Adult	10.00	11.50	11.50
Child (Age 5-11)	5.75	6.75	6.75
Senior (Age 65+)	5.75	6.75	6.75
*Group Adult	9.00	10.00	10.00
*Group Child (Age 5-11)	5.75	6.75	6.75
*Group Senior (Age 65+)	5.75	6.75	6.75
*Group Wholesale	7.75	9.00	9.00

JUSTIFICATIONS FOR REQUESTED PASSENGER FARE INCREASES

12. **Applicant Would Face Significant Net Loss on the Service.** Without the requested increases to the base passenger fares, the income from passenger fares on the Tiburon/SF Mid-Day Service for 2016 if the fares are rolled back to their 2010 levels is projected to be \$945,120, and the operating and general/administrative expenses to be incurred for the Tiburon/SF Mid-Day Service for 2016 are projected to total \$1,624,230,

² *Application of Blue & Gold Fleet, L.P. for Authorization to Adjust Fares on Its Service Between Tiburon and San Francisco*; Proceeding No. 15-08-009; filed August 10, 2015.

which would result in a net loss of \$679,111 for 2016. Such a significant amount of operating loss would jeopardize the ongoing operation of the Tiburon/SF Service. With the requested increases to the base passenger fares, the revenue from passenger fares on the Tiburon/SF Service is projected to be \$1,142,688, which would result in a net loss of \$486,966 for 2016, still a significant sum, but representing \$192,145 less of the projected net loss without the requested fare increase. See the Applicant's Pro Forma Income Statement, which is **Schedule C1 in Exhibit C** attached hereto, for the projected income and expenses for 2016 for the Tiburon/SF Service.

13. **Significant Increases in Operating Expenses.** Expenses of operating the Tiburon/SF Service have risen substantially from the level of expenses incurred in 2009 which provided the basis of the last approved set of base passenger fares in 2010. Examples of significant rising operational costs are the following:

A. **Vessel Crew Labor Costs.** The hourly wages of the vessel crews for the Tiburon/SF Service and the employee benefit program premiums keep increasing over time, and labor costs increase when the number of vessel trips on the Tiburon/SF Service are increased. Vessel crew labor costs in 2009 totaled \$392,702, but in more recent years this expense line item totaled \$455,359 in 2012, \$574,024 in 2013, \$641,393 in 2014, and \$687,898 in 2015. As shown on **Schedule B1 in Exhibit B** attached hereto, vessel crew labor costs are projected to go down next year to \$659,516 for 2016 due to the projected reduction of additional service in the first quarter of 2016 due to the effects of El Nino, but this projected operating expense is still substantially higher than the costs of this line item in 2009.

B. **Vessel Repair Costs.** The costs incurred in maintaining and repairing the vessels used in the Tiburon/SF Service are highly volatile and show a pattern that includes substantial increases over time. Vessel maintenance and repair costs for this Service in 2009 totaled \$178,948. Vessel maintenance and repair costs for this Service were \$136,533 for 2012, \$414,474 for 2013, \$244,958 for 2014, and \$516,841 for 2015. As shown on **Schedule B1 in Exhibit B** attached hereto, vessel maintenance and repair costs are predicted to go down from \$516,841 in 2015 to \$165,256 in 2016. The explanation for this pattern of up-and-down costs in this category is that the U.S. Coast Guard requires that boats need to be dry-docked every other year, and shipyard costs,

including the cost of labor and the cost of engine repairs continues to escalate, so it is reasonable to expect that the Tiburon/SF Service will incur costs for vessel maintenance and repair in the following year and every other year thereafter.

C. **Rent and Occupancy Costs.** Dock and facility lease costs for this Service in 2009 totaled \$6,912. As shown on **Schedule B1 in Exhibit B** attached hereto, rent and occupancy costs totaled \$29,499 in 2015, and this expense item is projected to go up next year to \$31,374 for 2016. This projected operating expense is still substantially higher than the costs of this line item in 2009, and it can reasonably be expected to go up higher in the future.

D. **Indirect Expenses (Facilities and Marketing).** For indirect expenses such as advertising and marketing, printed schedules and brochures, ticket stock purchases, toll-free telephone lines, credit card fees, and similar items, the Tiburon/SF service incurred expenses totaling \$265,091 in 2009. As shown on **Schedule B1 in Exhibit B** attached hereto, expenses for this line item totaled \$390,183 in 2015. Although this line item of expenses is projected to decrease to \$378,378 in 2016, it still will be substantially higher than it was in 2009.

14. **Trends in Passenger Ticket Sales.** As shown on the Chart of One-Way Ticket Sales, which is **Appendix D in Exhibit D** attached hereto, the annual totals of passenger ticket sales for the Tiburon/SF Service declined in 2015 to 107,365 from a total of 116,995, and the one-way passenger ticket sales are projected to decline further in 2016 to a total of 105,003. The Applicant is anticipating this decline in ridership as a result of the effects of El Nino. Projected lower ridership numbers result in projected lower operating revenue for 2016 compared to 2015, as shown on **Schedule B1 in Exhibit B** attached hereto.

15. **No Governmental Subsidies Contributing to Operating Costs.** The Applicant does not receive any subsidies for operating costs from federal, state, regional or local government agencies for the Tiburon/SF Service. Passenger fares are the only source of revenues for this Service. These very factors were findings of fact supporting the Commission's approval of the last two fare increases for the Tiburon/SF Service as stated in Decision No. 07-07-014 issued on July 12, 2007 and in Decision No. 10-04-045 issued on April 22, 2010.

16. **Proposed Fare Increases are Reasonable.** The Applicant has taken care to set the proposed new rates at levels that would not discourage ridership or negatively affect demand. The passengers of mid-day service runs on the Tiburon/SF Service have already been paying fares at the levels requested in this Application because of fuel surcharges added to the base fares, and so in effect the passengers will not have to pay more out-of-pocket to use the Tiburon/SF Service under the proposed new base fares than what they have been paying since December 2014 to ride the Service.

17. **In Line with Commission's Prior Actions on Requested Fare Increases for this Service.** The fare increases requested in this Application that would result in a manageable net loss for the carrier are on a par with those approved by the Commission in the last two Commission decisions on this Applicant's requests for fare increases for its Tiburon/SF Service. In Commission Decision No. 07-07-014 that approved the Applicant's Application No. 07-01-006, the Commission found the increases to be reasonable and justified, acknowledging that the Applicant projected a net loss of \$156,434 for 2007 even with the fare increases. In Commission Decision No. 10-04-045 that approved the Applicant's Application No. 09-12-029, the Commission found the increases to be reasonable and justified, acknowledging that the Applicant projected a net loss of \$153,689 for 2010 even with the fare increases.

OVERVIEW OF FINANCIAL DATA AND PROJECTIONS SUPPORTING THE REQUESTED FARE INCREASES

18. The Applicant has prepared a series of Schedules stating in organized fashion data on the actual operating income and expenses for this Service and the projections for operating income and expenses in 2016 with and without the requested fare increases.

Schedule B1 in Exhibit B presents the actual operating income for 2015 and the projected operating income for 2016 with the requested fare increases and also the actual vessel operating expenses, non-vessel operating expenses and general and administrative expenses incurred for the Tiburon/SF Service in 2015, with projected figures for each line item for 2016. As required by the Commission's Decision No. 97-06-006 issued on June 11, 1997, Footnote (1) on **Schedule B1** explains that the depreciation line items exclude

“excess” depreciation and interest expense related to Applicant’s purchase of the vessels and non-vessel assets of Harbor Carriers, Inc., dba Red & White Fleet, in 1997.

19. **Schedule B1a in Exhibit B** gives a breakdown of the Applicant’s **General and Administrative Expenses** for all of its passenger services on San Francisco Bay for the 12 months of 2015, which totaled \$1,755,259, and indicates that 9.8% of the company’s General and Administrative Expenses are allocated to the Tiburon/SF Service, which amounts to \$171,271, the figure stated for that line item in **Schedule B1**.

20. **Schedule B2 in Exhibit B** gives an **Overview of the Applicant’s Investments** in vessels, reserves for depreciation, investments in other property and equipment, and working capital allocated to the Tiburon/SF Service for the 12 months of 2015. These investments total \$521,857 and are detailed in Schedules B3, B4, B5 and B6.

21. **Schedule B3 in Exhibit B** shows the portions of the Applicant’s total **Investments in Vessels** that are allocated to the Tiburon/SF Service, listing all the vessels in the fleet used in this Service, their net book values as of December 27, 2015, any additions or deletions during calendar year 2015, the percentages of vessel usage allocated to the Tiburon/SF Service, and the equivalent dollar figure allocated to the Tiburon/SF Service for calendar year 2015, totaling \$382,771 as of December 27, 2015.

22. **Schedule B4 in Exhibit B** shows the portions of the Applicant’s total **Reserve for Depreciation of Vessels** that are allocated to the Tiburon/SF Service. The Table lists the reserve for each vessel in the fleet as of the beginning of 2015 and at the end of the 12 months of 2015, showing the differences in reserve amounts at the end of the 12 month period, and the percentages of the reserves allocated to the Tiburon/SF Service, which totaled \$40,744 as of December 27, 2015.

23. **Schedule B5 in Exhibit B** identifies as **Other Property and Equipment** the Gangway at Tiburon, with a cost basis of \$27,435, and a net investment of \$3,506 for 2015.

24. **Schedule B6 in Exhibit B** calculates the amount of **Working Capital** available per month for the Tiburon/SF Service for the 12 months ending December 27, 2015. The working capital necessary to pay the vessel and non-vessel operating expenses

and the share of administrative and general expenses allocated to the Tiburon/SF Service on **Schedule B1** in 2015 amounted to \$176,325 per month.

25. **Schedule C1 in Exhibit C** is a Pro Forma Chart of **Projected Operating Revenue and Expenses for 2016**, with and without the requested fare increases. As required by the Commission's Decision No. 97-06-006 issued on June 11, 1997, Footnote (1) on **Schedule C1** explains that the depreciation line items exclude "excess" depreciation and interest expense related to Applicant's purchase of the vessels and non-vessel assets of Harbor Carriers, Inc., dba Red & White Fleet, in 1997.

26. **Schedule C1a in Exhibit C** gives a breakdown of the Applicant's **Projected General and Administrative Expenses for 2016** on all of its passenger services on San Francisco Bay, which total \$1,427,383, and indicates that 9.3% of the company's General and Administrative Expenses will be allocated to the Tiburon/SF Service in 2016, which amounts to \$132,855, the figure stated for that line item in **Schedule C1**.

27. **Schedule C2 in Exhibit C** gives an **Overview of the Applicant's Projected Investments** in vessels, reserves for depreciation, investments in other property and equipment, and working capital allocated to the Tiburon/SF Service for the 12 months of 2016. These projected investments total \$422,143 and are detailed in Schedules C3, C4, C5 and C6.

28. **Schedule C3 in Exhibit C** shows the portions of the Applicant's total **Projected Investments in Vessels** that are allocated to the Tiburon/SF Service for 2016, listing all the vessels in the fleet used in this Service, their net book values as of December 27, 2015, any additions or deletions during calendar year expected during 2016, the percentages of vessel usage allocated to the Tiburon/SF Service, and the equivalent dollar figure allocated to the Tiburon/SF Service for calendar year 2016, and the expected revisions from the 2015 figures, which amount to reductions totaling \$70,608.

29. **Schedule C4 in Exhibit C** shows the portions of the Applicant's total **Projected Reserve for Depreciation of Vessels** that are allocated to the Tiburon/SF Service for 2016. The Table lists the reserve for each vessel in the fleet as of the beginning of 2016 and at the end of the 12 months of 2016, showing the differences in reserve amounts at the end of the 12 month period, and the percentages of the reserves

allocated to the Tiburon/SF Service, the revisions to the 2015 figures, which calculate a total reduction of \$13,243.

30. **Schedule C5 in Exhibit C** identifies **Other Property and Equipment** expected for 2016, listing only the Gangway with a Cost Basis of \$27,435, reserve at mid-year of \$25,758, and a net investment at the end of 2016 of \$1,677.

31. **Schedule C6 in Exhibit C** shows the amount of **Projected Working Capital** available per month for the Tiburon/SF Service for the 12 months ending December 25, 2016. The working capital necessary to pay the vessel and non-vessel operating expenses and the share of administrative and general expenses allocated to the Tiburon/SF Service on **Schedule C1** for 2016 is projected to total \$1,629,655 for the year, which amounts to \$135,805 per month.

32. **Appendix D in Exhibit D** is a Chart of **One-Way Ticket Sales** by month for the years 2012 through 2015 and projected for 2016. The Applicant is projecting a total of 105,003 one-way ticket sales on the Tiburon/SF Service for 2016, which amounts to a projected 2,362 tickets less than the 107,365 sold in 2015.

33. **Applicant's Financial Statement**. The Applicant presents in **Exhibit E** a **Financial Statement of Assets, Liabilities & Partners' Capital** as of December 27, 2015. This documents shows that this Applicant has the financial resources to continue to operate the Tiburon/SF Service and to cover expenses not met by farebox revenues.

34. **Summary Overview of Supportive Documentation**. The documentation included in Exhibits B through E provide ample data and careful calculations of projections sufficient to support the justifications for the requested base passenger fare increases stated in Paragraphs 12 through 17 above.

REQUEST FOR ZORF AUTHORITY

35. Applicant is requesting authority from the Commission to promptly adjust fares within a Zone of Rate Freedom (ZORF) of Twenty Percent (20%) above or below its authorized based passenger fares without having to seek prior Commission approval in each instance. Applicant's rationale for qualifying for ZORF authority is outlined in the following paragraphs and sub-paragraphs.

36. **Commission Precedents.** Applicant's request for ZORF authority is justified and appropriate because the Commission has previously granted ZORF authority to vessel common carriers in similar circumstances:

(1) **Leading Commission Precedent – Catalina Channel Express.** In 1998, Catalina Channel Express, a vessel common carrier of passengers between the Ports of Los Angeles and Long Beach and Santa Catalina Island, received ZORF authority from the Commission to quickly adjust passenger fares within a Zone of Reasonableness without having to get prior Commission authority in each instance.³ This was the first vessel common carrier to receive ZORF authority; previously it had been granted to passenger stage carriers like airporter shuttles as an effective device for adapting quickly to changes in their competitive circumstances.⁴ Catalina Channel Express had argued that it deserved ZORF authority because there was competition among carriers on the Catalina Island-serving routes and because it needed to respond to seasonal fluctuations in traffic to cover its costs in times of light ridership. Included among the findings supporting the Commission's approval were: "2. There is competition for the applicant's services by substantially similar vessel carriers on all cross-channel routes that the applicant serves." and "5. Allowing the applicant to adjust its fares up to ten percent above and below its currently authorized fares on ten days' notice to the Commission and the public would enable the applicant to respond quickly to changing circumstances in the cross-channel market it serves, and would result in reasonable rates and charges in light of the existence of competitive transportation services."⁵

In 2004, the Commission approved Catalina Channel Express's requests to increase its existing baseline fares between 3% and 10.8% and also to expand its ZORF authority from 10% to 15% above and below its new baseline fares.⁶

³ *In re Application of Catalina Channel Express*, Application No. 98-04-051; Decision No. 98-12-016; 1998 Cal. PUC LEXIS 868; 83 CPUC2d 265.

⁴ The Commission has authority under Public Utilities Code § 454.2 to establish a ZORF rate for any passenger stage transportation service that is operating in competition with other passenger transportation service, if the competition, together with the authorized zone of rate freedom, will result in reasonable rates and charges for the passenger stage transportation service.

⁵ *In re Application of Catalina Channel Express*, Application No. 98-04-051; Decision No. 98-12-016; 1998 Cal. PUC LEXIS 868; 83 CPUC2d 265.

⁶ *In re Application of Catalina Channel Express*, Application No. 03-11-004; Decision No. 04-04-004; 2004 Cal. PUC LEXIS 117.

In 2005, Catalina Channel Express requested Commission authority to increase its baseline fares between 10% and 15% to the level of its current ZORF fares and also authority to apply its existing ZORF to the new baseline fares. It argued that other vessel common carriers were granted temporary authority to adjust their fares for a fuel surcharge up to 15% but that Catalina Channel Express was specifically excluded from that grant of authority to other VCCs because it holds its own ZORF of 15%. The Commission approved these requests as justified and reasonable.⁷

In 2006, Catalina Channel Express requested Commission authority to increase its baseline fares between 12.7% and 15.3% and also to expand its ZORF authority from 15% to 20% above and below the new baseline fares. To justify the requested increase in ZORF authority, the applicant argued that there was ample competition from other carriers providing service to Catalina Island and that competitive pressures will insure that the applicant will continue to price its service reasonably, and also that it competes with numerous tourist attractions in Southern California for tourist dollars for discretionary activities so that if its price-of-service becomes too high, people will simply choose not to use applicant's service and spend their money elsewhere. Further, it argued that it must have the ability to respond to increased costs arising from any crisis without canceling or reducing the level of passenger service it provides. The Commission approved the requested increases in the baseline passenger fares as justified by increasing operating costs and the ongoing application of ZORF authority to the re-set base fares as justified by the competitive factors in the market⁸.

In 2008, Catalina Channel Express requested Commission authority to further increase its baseline fares between 13.8% and 19.4% and also authority to apply its existing 20% ZORF authority to the new baseline fares. It argued that other vessel common carriers were granted temporary authority to adjust their fares for a fuel surcharge up to 20% but that Catalina Channel Express was specifically excluded from that grant of authority to other VCCs because it holds its own ZORF of 20%. The requests were approved by the Commission, finding that the increased baseline passenger

⁷ *In re Application of Catalina Channel Express*, Application No. 05-06-034; Decision No. 05-10-011; 2005 Cal. PUC LEXIS 452.

⁸ *In re Application of Catalina Channel Express*; Application 06-07-013; Decision No. 06-12-022; 2006 Cal. PUC LEXIS 433.

fares were reasonable and that ongoing application of the ZORF authority to the new baseline fares was also reasonable.⁹

(2) **Harbor Breeze Corp.** In 2007, Harbor Breeze Corp. was granted a certificate as a vessel common carrier providing water taxi service in and between Long Beach Harbor and San Pedro Harbor and providing on call service between Long Beach and Catalina Island and was also granted ZORF authority to adjust its base passenger fares within a Zone of Rate Freedom of 20% above and below its approved fares, finding that granting Harbor Breeze Corp. ZORF authority is in the public interest.¹⁰ Since 2007, Harbor Breeze Corp. along with Catalina Channel Express has been specifically excluded from the fuel surcharge authority granted generally to all vessel common carriers because those two carriers have had their own separate general ZORF authority.

(3) **Catalina Freight Line.** In 2007, vessel common carrier Catalina Freight Line, Inc. (VCC-58) was granted ZORF authority to charge rates within a Zone of Rate Freedom up to 20% below regular rates to attract customers and build business for deliveries to the camps and beaches on Catalina Island using a lander vessel.¹¹ Catalina Freight Line demonstrated that it operated in a competitive environment with other vessel common carriers, Pacific Tug and Catalina Flying Boats, which provided similar services for the market. In its Decision, the Commission explained that it had extended the ZORF concept originally applied to passenger stage transportation services to vessel common carriers in its 1998 Decision for Catalina Channel Express.

(4) **Avalon Freight Services and Curtin Maritime Corporation.** The Commission in February 2016 granted ZORF authority to two new freight transport vessel common carriers --- Avalon Freight Services and Curtin Maritime Corporation --- by allowing them to establish a Zone of Rate Freedom to quickly adjust their rates for the

⁹ *In re Application of Catalina Channel Express*; Application 08-04-039; Decision No. 08-07-036; 2008 Cal. PUC LEXIS 293.

¹⁰ *In re Application of Harbor Breeze Corp.*; Application 06-05-011; Decision No. 07-06-026; 2007 Cal. PUC LEXIS 262.

¹¹ *In re Application of Catalina Freight Line, Inc.*, Application No. 06-03-007; Decision No. 07-01-006; 2007 Cal. LEXIS 12.

freight transport services they will provide between the Los Angeles and Long Beach Harbors and Catalina Island in order to foster competition.¹²

37. **Applicant Operates in a Similar Competitive Market.** Applicant Blue and Gold Fleet operates in a competitive market in the San Francisco Bay area similar to the vessel common carriers already granted ZORF authority by the Commission because of their competitive market in the Los Angeles-Long Beach-Catalina Island area:

(1) **There is significant competition for passengers among vessel common carriers in the San Francisco Bay Market.** There is a significant number of other carriers providing scheduled passenger service on San Francisco Bay and competing with Blue & Gold Fleet for passenger business. The Golden Gate Bridge Transportation and Highway District provides ferry passenger service between San Francisco and Larkspur in Marin County, commuter service to and from Sausalito, and is currently in the process of taking over commuter service to and from Tiburon. Passenger service to Alcatraz Island, a federal park, is provided by another carrier usually in combination with tour company ticket packages for tourists or school groups. Persons interested in traveling to Angel Island State Park have options to do so by scheduled vessel trips from Tiburon provided by the Angel Island-Tiburon Ferry, Inc. (VCC-82) or from San Francisco on Applicant Blue & Gold Fleet's service. The San Francisco Bay Water Emergency Transportation Authority (WETA) provides scheduled vessel passenger service on San Francisco Bay to and from points in San Francisco from terminals at Jack London Square in Oakland, Harbor Bay Alameda, Vallejo, and South San Francisco, cross-Bay service between South San Francisco and Oakland/Alameda, and trips from Vallejo and the East Bay to San Francisco Giants games at AT&T Park in San Francisco. Another vessel common carrier, Red & White Ferries, Inc. (VCC-81) has Commission authority to provide passenger service on San Francisco Bay, subject to grants of authority for specific routes, and also provides non-regulated passenger vessel tours on the Bay. Similar to Catalina Channel Express's situation in a competitive environment in Southern California acknowledged in previous Commission decisions, Blue & Gold Fleet

¹² In re *Application of Avalon Freight Services*, Application No. 14-10-015, & In re *Application of Curtin Maritime Corporation*, Application No. 15-01-005; Consolidated Decision No. 16-02-024; 2016 Cal. PUC LEXIS 113.

competes with numerous vessel carriers and with tourist attractions in the San Francisco Bay Area for tourist dollars for discretionary activities so that if its price-of-service becomes too high, people will simply choose not to use Applicant Blue & Gold Fleet's service and spend their money elsewhere.

(2) **Another Request for ZORF Authority is Pending.** The Commission is currently considering an application from PropSF, LLC, to be a new vessel common carrier on San Francisco Bay that has specifically requested authority to establish a Zone of Rate Freedom of 15% above and below its proposed base fares, with justifications for its request for ZORF authority found in Commission policies and precedents, the presence of existing passenger ferry services on San Francisco Bay, and because "it is clear that substantial competition already exists in the relevant ferry/water service market."¹³

38. No Temporary Fuel Surcharge Authority Is Currently Available.

Because of declining vessel fuel costs, the Commission did not extend or renew for 2016 the temporary fuel surcharge authority granted to all vessel common carriers except Catalina Channel Express and Harbor Breeze Corp. in previous years.¹⁴ Without the requested ZORF authority, Applicant will not be able to rapidly respond to increased costs for fuel that may occur because of regional shortages due to reduced production or processing in California or to national or global crises that impact the supply and prices of diesel fuel.

39. Granting ZORF Authority in This Instance is in the Public Interest. It will further the public interest for Applicant to be able to quickly reduce or increase its base passenger fares so that it can afford to continue to provide its vessel passenger transport services that are beneficial to the passengers that can make trips to desired destinations around San Francisco Bay in a transportation mode alternative to vehicles

¹³ *Amended Application of Prop SF, LLC*, No. 15-08-014, dated January 19, 2016, at p. 5.

¹⁴ *Resolution Extending the Authority to Vessel Common Carriers to Adjust Their Fares and Rates without Specific Approval of the Commission*, Resolution TL-19115, issued December 19, 2013; 2013 Cal. PUC LEXIS 732.

contributing to congestion on the region's roads and bridges and also are beneficial to the businesses in the Bay Area that count on ferry passengers as customers. Granting ZORF authority to Applicant will also be beneficial to the Commission's regulatory processing program because the Applicant would not have to keep coming back to the Commission for frequent fare increase applications to cover rising fuel prices and other operational costs or to reduce fares to remain competitive with other vessel common carriers and tourist attractions in the San Francisco Bay Area.

SCOPING INFORMATION

40. **Schedule**. Pursuant to Rule 2.1(c), Applicant proposes that this Application be processed as a Ratesetting proceeding, without need for a hearing, on the following schedule:

April 15, 2016	Application filed.
April 22, 2016	Notice published in Daily Calendar.
May 23, 2016	Deadline for any Protests.
June 24, 2016	Decision Adopted (Assuming no Protests).

41. **Issues**. For scoping purposes, the issues presented by this Application are:

(a) Whether the requested increases in base passenger fares are reasonable and justified; and

(b) Whether the requested Zone of Rate Freedom (ZORF) authority to promptly adjust fares is justified and appropriate given the circumstances.

ENVIRONMENTAL CONSIDERATION

42. It can be seen with certainty that there is no possibility that the granting of this Application for base passenger fare increases on Applicant's Tiburon/SF Service for its mid-day service runs or that the granting of the requested ZORF authority will have a significant adverse effect upon the physical environment because it does not involve any changes in the Applicant's vessel operations or docking arrangements on its Tiburon/SF Service route.

JUSTIFICATION FOR SHORT NOTICE

43. Short notice authority under Section 491 of the Public Utilities Code is requested so that the proposed new base passenger fares on Applicant's Tiburon/SF Service for its mid-day service runs can be published as soon as possible upon authorization. This Application is one which may be handled under the Commission's ex parte procedure for immediate approval, since there will be no adverse impacts on any other common carrier passenger ferry services.

Respectfully submitted,

Date: April 15, 2016

_____/S/_____

Daniel F. Reidy

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VERIFICATION

I, Carolyn Horgan, am the President of Blue & Gold Fleet, L.P., and I am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters regarding citations to prior Decisions of the Commission as precedents or sources of guidance for which I am relying on our company's attorney, and as to those matters I believe them to be true. For financial data and projections herein, I am relying on the work of accountants and analysts in our company's employment, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 15, 2016 in San Francisco, California.

/ S /
Carolyn Horgan
President, Blue & Gold Fleet, L.P.